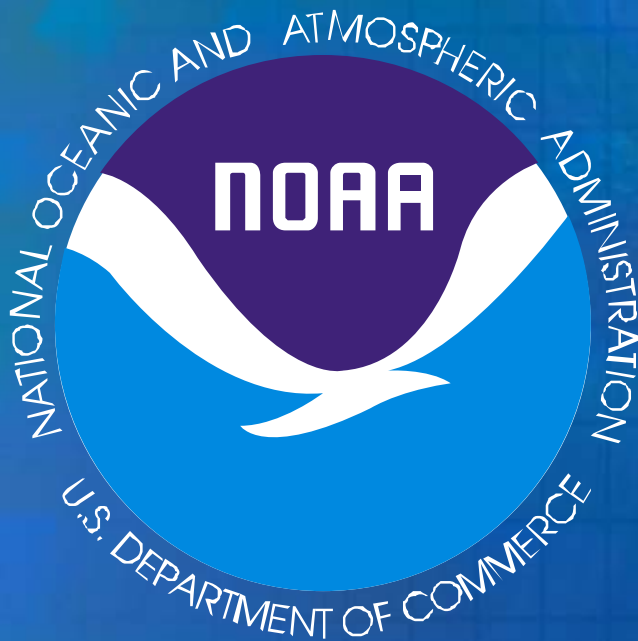


# *Improving Fisheries Regulations: Regulatory Streamlining & Performance Measures in Fisheries Management*



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# Regulatory Streamlining: Implementing RSP

- **Goals of RSP: Resolve problems**
  1. Unnecessary delays
  2. Unpredictable outcomes
  3. Lack of accountability
  4. Lack of standard practices
  5. Inadequate regulatory decisions
  6. Losses in litigation

# Chronology

- 1996 – MSA and RFA Amendments increased fishery management requirement and provided new opportunities for judicial review
- 1998 – Influx of NEPA, ESA, and MSA based challenges to fishery management actions
- 2000:
  - NOAA initiated a comprehensive review of fishery management process
  - Alaska groundfish fisheries closed by federal court order due to NEPA and ESA issues



# Chronology

- 2001 – Congress directed NOAA Fisheries to improve the quality and efficiency of its regulatory decisions and raise the likelihood of litigation success and directed NAPA to conduct review of NOAA Fisheries
- 2002
  - NAPA issued report with recommendations for regulatory improvements
  - NOAA Fisheries submitted report to Congress on RSP
- 2003 – RSP implementation
- 2004 – NAPA review of RSP implementation

# Background: Congressional Direction

The RSP is designed to address problems with “unnecessary delays, unpredictable outcomes, and lack of accountability” and move us toward “...development and application of standardized practices” to “improve the quality and efficiency of regulatory decisions and raise the likelihood of success in litigation” (S. RPT 107-42).

# Why Do We Need RSP?

- **To improve timeliness**
- **To produce regulations that will withstand legal challenge**
- **To improve confidence in the Fishery Management Process**



# Regulatory Streamlining

- **Unique challenge: integrating statutory requirements under the MSA with the requirements of other statutes.**
- **ESA, MMPA, NEPA, RFA and Executive Orders impose analytical responsibilities on the agency and require that environmental, economic, and other impact analyses be conducted on a range of possible federal actions.**
- **These analyses must occur sufficiently early in the regulatory process, in order to facilitate consideration of a range of reasonable alternatives.**

# Regulatory Streamlining

- **The primary mechanisms for implementing RSP include:**
  - **Frontloading the NEPA Process**
  - **Revising the Operational Guidelines**
  - **Establishing a National Training Program**
  - **Hiring Environmental Policy Coordinators**
  - **Improving the Administrative Process**
  - **Improving the Fishery Management Process**
  - **Addressing Science Issues**
  - **Workforce Organization and Prioritization**



# Regulatory Streamlining: The Report to Congress

***Frontloading:*** “the active participation of all regional, science center, and Council staff in key responsibilities (e.g., sustainable fisheries, protected resources, habitat, economics, legal review) at the early stages of fishery management action development -- a “no-surprises” approach”

# How Will This Help the Councils?

- **Better documents – better decisions**
- **Less litigation**
- **Drive the process**
- **Partnership of NMFS and Councils**
- **Build a quality product together**
- **Safe harbor – accelerated process**
- **No surprises**
- **Get NOAA HQs approvals faster**

# Quality in Fisheries Rulemaking

- **Quality is the degree to which a set of inherent characteristics fulfills the stated requirements**
- **Quality, in our context, has three components dealing with management, control, and assurance**



# Quality Improvement in Fisheries Rulemaking

- **Philosophy and Approach:**
  - Focus on documentation for decision-making
  - Collaborative Council/NOAA Fisheries efforts to produce documentation to support decisions
  - Raise, analyze, and properly deal with all issues as soon as they can be anticipated
  - Allow Councils and Region Offices to develop protocols for collaboration
  - Encourage participation up front – avoid sequential reviews
  - Collaborative Council/NOAA Fisheries planning process

# Quality Improvement in Fisheries Rulemaking

- **General Principles:**

- Use NEPA process as the umbrella
- Frontloading
- Collaboration in the preparation of documents
- Determinations must be supported by facts and analysis in the record
- Cohesive, coherent documentation
- Regional Operating Agreements
- Expedited reviews for conforming documents
- Concurrent reviews

# Performance Measures for Fisheries Management

- **Accountability of federal agencies to achieve program results required by:**
  - **Government Performance and Results Act of 1993**
  - **President's Management Agenda**
- **Agencies required to establish quantifiable measures with annual targets and report on progress against targets**



# NOAA's Current Fisheries Measures Focus on:

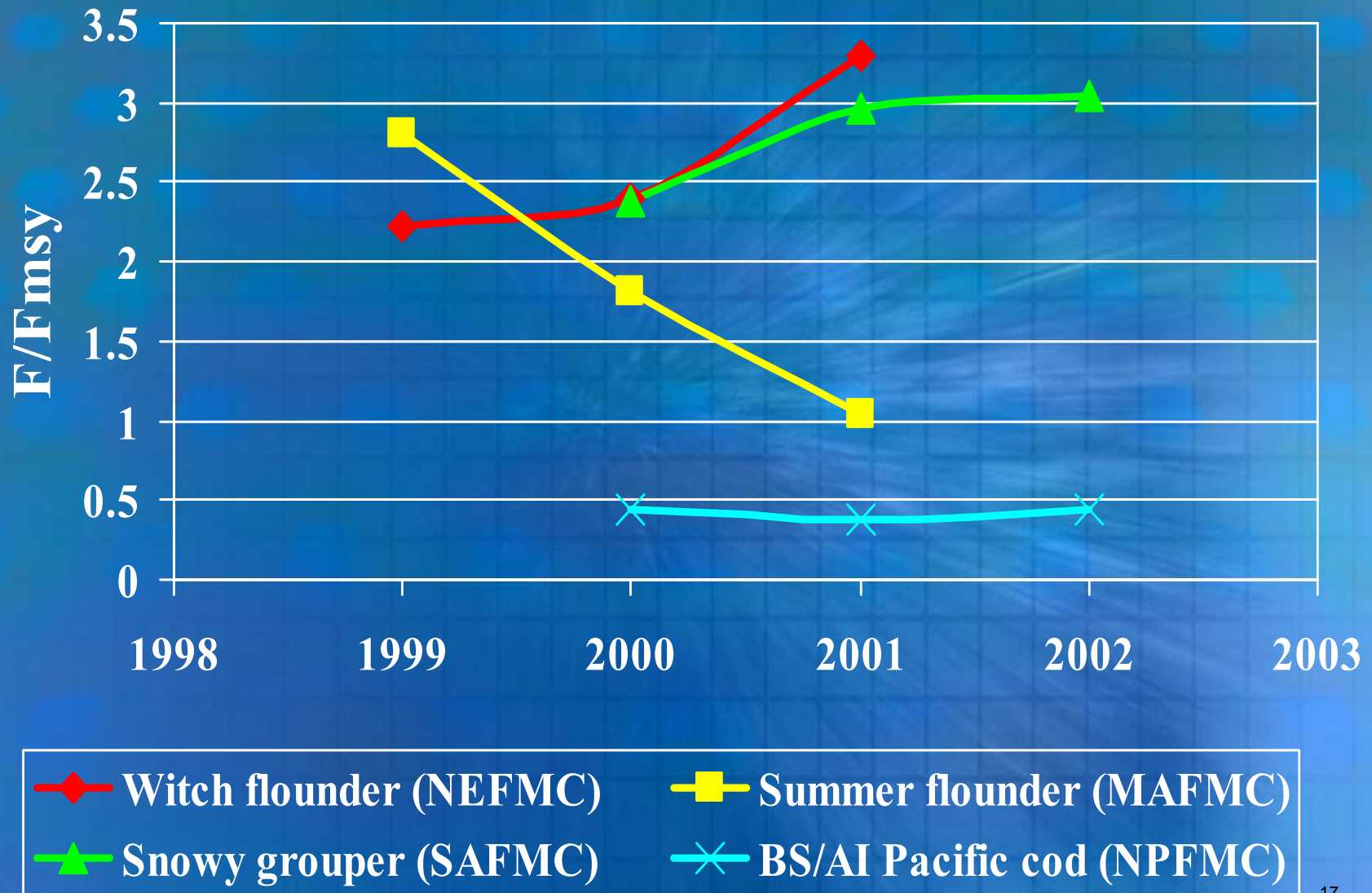
- Reductions in the Number of Overfished Stocks
- Increases in the Percentage of Major Overfished Stocks with Rebuilding Plans
- Reductions in the Number of Major Stocks with an “Unknown” Stock Status

**These Measures Only Allow for Progress to be Measured at a Single Point**

# New Measures Under Development Will:

- **Track Changes in Fisheries Mortality Rates and Biomass relative to Biological Reference Points and Annual Targets**
- **Selected Stocks will be used with these Measures to create Indices of Fish Stock Sustainability**
- **Allow for Incremental Progress to be Tracked regardless of whether or not an Overfishing or Overfished Threshold is Crossed**

## F/F<sub>msy</sub> for selected stocks, 1999-2002



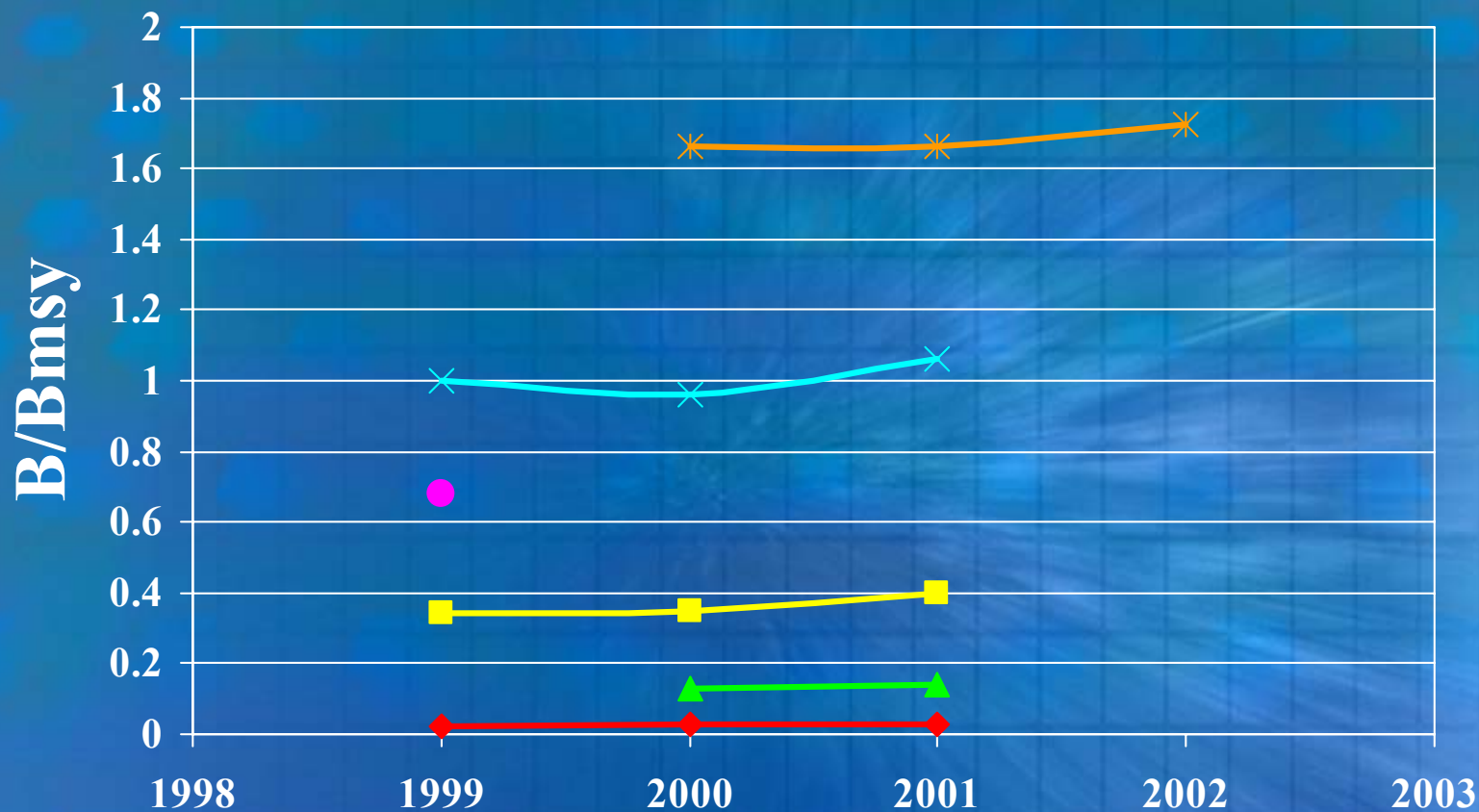


## Catch/TAC for selected stocks, 2000-2002



- ◆ Atlantic Herring (NEFMC)
- Illex Squid (MAFMC)
- ▲ BSAI/GOA Sablefish (NPFMC)
- ✕ Bluefin Tuna (HMS)

## B/B<sub>msy</sub> for selected stocks, 1998-2002



- Yellowtail Flounder-SNE/MA (NEFMC)
- Summer Flounder (MAFMC)
- Black Sea Bass (SAFMC)
- Yellowtail Snapper (GMFMC)
- Walleye Pollock - EBS (NPFMC)
- Albacore - North Atlantic (HMS)